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May 2, 2025

BY ECF

Hon. Jennifer L. Rochon
United States District Court
Southern District of New York
500 Pearl St.
New York, New York 10007

Re: Diaz et ano. v. Melissa Aviles-Ramos et ano.
24-cv-9340 (JLR) (HJR)

Dear Judge Rochon:

This office represents Defendants New York City Department of Education (DOE) and Melissa Aviles-Ramos, in her official capacity as Chancellor of the New York City Department of Education, in the above action brought pursuant to the Individuals with Disabilities Education Act (IDEA), in which Plaintiffs allege that the DOE has not fully implemented two unappealed administrative decisions.

I write to object to Plaintiffs' submission of Exhibits A-I, submitted in conjunction with their 56.1 Counter Statement. (ECF No. 29-2-10). These documents contain unredacted personally identifying information ("PII"), including the Student's ID/Organizational Student Information System ("OSIS") number, date of birth, family name, and address, in violation of Electronic Case Filing System ("ECF") Rules 21.3 and 21.4. Plaintiff also failed to request permission to file Exhibits A-I under seal in violation of ECF Rule 6.1 and FRCP 5.2.

These materials are also confidential under the IDEA and the Family Educational Rights and Privacy Act (FERPA). 34 C.F.R. § 99.3 (defining personally identifiable information under FERPA), § 300.32 (including a "list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty" as personally identifiable information under IDEA).

Moreover, as the underlying administrative proceeding is presumptively closed to the public pursuant to 34 C.F.R. § 300.512(c)(2), all documents recounting the proceeding should themselves be deemed confidential. *Id.* (permitting parents to choose whether a hearing is open or

closed to the public). In actions under the IDEA, to protect the privacy interests of minor plaintiffs, courts have required that sensitive or PII be kept confidential. *See P.M. individually and on behalf of J.M., a child with a disability v. Evans-Brant Cent. Sch. Dist.*, 2008 U.S. Dist. LEXIS 112262, 2008 WL 4379490, at **3-4 (W.D.N.Y. Sept. 2, 2008); 20 U.S.C. § 1417(c). “For these reasons, courts in this Circuit have routinely allowed administrative records underlying IDEA cases to be filed under seal to protect the privacy interests of minor child plaintiffs.” *L.B. v. New York City Dept of Ed*, 15-CV-3176, 2015 U.S. Dist. LEXIS 127081, *2 (S.D.N.Y. Sept. 22, 2015)(citing *A.M. ex rel. Y.N. v. New York City Dep’t of Educ.*, 964 F. Supp. 2d 270, 277 (S.D.N.Y. 2013); (*C.L. v. Scarsdale Union Free Sch. Dist.*, 913 F. Supp. 2d 26, 30 (S.D.N.Y. 2012)).

All parties to this action have a responsibility to protect the Student’s PII. Plaintiffs’ inexplicable failure to take appropriate precautions to safeguard the Student’s PII and comply with this Court’s confidentiality policies is prejudicial to the Student because this Student’s PII is now available in a public court filing where it can be accessed by anyone.

Accordingly, Defendants object to the submission of these documents and request the Court strike them from the public docket.

Thank you for Your Honor’s consideration of this request.

Respectfully submitted,

/s/ MGT

Mark G. Toews

Assistant Corporation Counsel

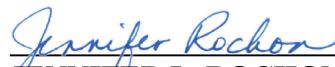
cc. **BY ECF**
Plaintiffs’ counsel

In light of Defendants' request

The Clerk of Court is respectfully directed to temporarily restrict viewing options for Dkt. 29, including Dkts. 29-2 through 29-10, to case participants only. Plaintiff shall file a response, if any, to Defendants' letter-motion to seal by May 5, 2025.

SO ORDERED.

Dated: May 2, 2025
New York, New York


JENNIFER L. ROCHON
United States District Judge